



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 8

1595 Wynkoop Street  
Denver, CO 80202-1129  
Phone 800-227-8917  
www.epa.gov/region08

Ref: 8ENF-L

AUG 18 2016

**CERTIFIED MAIL: 7012 2210 0000 5371 0041**  
**RETURN RECEIPT REQUESTED**

Mr. Kevin P. Kauffman  
Registered Agent for K.P. Kauffman Company, Inc.  
1675 Broadway Street, Suite 2800  
Denver, Colorado 80202

Re: Supplemental Section 114(a) Request for Information Pursuant to the Clean Air Act,  
42 U.S.C. § 7414(a) to K.P. Kauffman Company, Inc.

Dear Mr. Kauffman:

The United States Environmental Protection Agency hereby requires K.P. Kauffman Company, Inc. (KPK) to provide certain information to determine the Clean Air Act (CAA) compliance status of its oil and natural gas production facilities located in Colorado.

Pursuant to section 114(a) of the CAA, 42 U.S.C. § 7414(a), the Administrator of the EPA is authorized to require any person who owns or operates an emissions source to establish and maintain records, make reports, sample emissions (in accordance with the procedures and methods that the Administrator shall prescribe) and provide such other information as she may reasonably require for the purpose of determining whether such person is in violation of any provision of the CAA. This authority has been delegated to the undersigned official.

This letter requests information to supplement previous information requests. On August 18, 2015, the EPA issued KPK a request for information pursuant to section 114 of the CAA, 42 U.S.C. § 7414. The EPA received KPK's response to the initial request on December 30, 2015. A supplemental section 114 request was also issued on May 6, 2016, and the EPA received KPK's response on June 6, 2016. Please refer to the instructions and definitions from the August 18, 2015 information request when responding to this supplemental request.

For the EPA to determine KPK's compliance, you are hereby required, pursuant to section 114(a) of the CAA, to provide responses to **Requests 1-4 of Enclosure 1**. By **September 2, 2016**, KPK must respond to Request 1. Within **sixty (60) calendar days** from receipt of this request, you must respond to Requests 2-4. You are required to **attach a properly executed Statement of Certification (Enclosure 2)** to your response to this request. The statement **must be signed and dated**. You are under an obligation to preserve all documents requested in this letter until you receive further instructions from the EPA.

Failure to provide the required information is a violation of the CAA and may result in one or more of the following actions: 1) issuance of an administrative penalty order pursuant to section 113(d) of the CAA, 42 U.S.C. § 7413(d); 2) issuance of an order requiring compliance with this request; 3) the

initiation of a civil action pursuant to section 113(b) of the CAA, 42 U.S.C. § 7413(b); and/or 4) any other authorized action. In addition, knowingly providing false information in response to this information request may be actionable under section 113(c) of the CAA, 42 U.S.C. § 7413(c), and 18 U.S.C. §§ 1001 and 1341. The information you provide may be used by the EPA in administrative, civil, and criminal proceedings.

Under section 114(c) of the CAA, 42 U.S.C. § 7414(c), and pursuant to regulations at 40 C.F.R. Part 2, including 40 C.F.R. § 2.301, you are entitled to claim as confidential any information you provide to the EPA which involves trade secrets and is regarded as confidential business information by you. For such information, you may request that the EPA treat such information as confidential. Any such claim for confidentiality must conform to the requirements of 40 C.F.R. § 2.203(b). Note that emission data cannot be claimed as confidential under section 114(c). For detailed instructions, please see Enclosure 4 to this letter. Information you supply will be treated as confidential business information to the degree determined to be appropriate according to the regulations. If you fail to furnish a business confidentiality claim with your response to this information request, the EPA will construe your failure as a waiver of that claim, and the information may be made available to the public without further notice to you.

**YOU MUST SUBMIT ALL RESPONSIVE INFORMATION:** *Whether or not you make a claim of confidentiality.*

Please submit your response to this request to:

U.S. Environmental Protection Agency Region 8  
Air and Toxics Enforcement (ENF-AT)  
1595 Wynkoop Street  
Denver, Colorado 80202-1129  
Attn: Scott Patefield

Should you have any questions of a technical nature, please contact Scott Patefield at (303) 312-6248. Any questions from your attorney should be directed to Lauren Hammond, Enforcement Attorney, at (303) 312-7081. Thank you very much for your cooperation.

Sincerely,



Suzanne J. Bohan  
Assistant Regional Administrator  
Office of Enforcement, Compliance  
and Environmental Justice

Enclosures:

1. Instructions;
2. Information Request;
3. Statement of Certification; and
4. Confidential Business Information Requirements

cc: Susana Lara-Mesa, Vice President of Engineering, K.P. Kauffman Company, Inc. (w/ Encl.)  
Kelsey Wasylenky, Corporate Counsel, K.P. Kauffman Company, Inc. (w/ Encl.)  
Randy Dann, Attorney, Davis Graham and Stubbs LLP (w/ Encl.)  
Chelsea Grossi, Attorney, Davis Graham and Stubbs LLP (w/ Encl.)

## **ENCLOSURE 1:**

### **INFORMATION REQUESTED**

Please provide the following information by **September 2, 2016**:

1. During the meeting held between the EPA and KPK on March 22, 2016, there was a discussion about eight Spindle Consolidation Facilities. Statements were made regarding produced gas that was not being collected and sent to the gas gathering system but instead was metered and then combusted. If produced gas was sent to an alternate location other than the gas gathering system (e.g. atmospheric condensate storage tank(s), the vapor capture and control system, or the atmosphere) at any time over the past five years at any of the ten tank batteries identified in Enclosure 5 of the CAA section 114 request for information issued to KPK on August 18, 2015, provide the following information:
  - a. The date and duration of the event;
  - b. The reason for the gas routed to the alternate location;
  - c. The source of the gas routed to the alternate location; and
  - d. The amount of gas routed to each alternate location.

Please provide the following information within **60 days of your receipt** of this request:

2. During the meeting held between the EPA and KPK on March 22, 2016, there was a discussion about eight Spindle Consolidation Facilities. Statements were made regarding produced gas that was not being collected and sent to the gas gathering system but instead was metered and then combusted. If produced gas was sent to an alternate location other than the gas gathering system (e.g. atmospheric condensate storage tank(s), the vapor capture and control system, or the atmosphere) at any time over the past five years at any KPK production facility (excluding any data provided in response to the 10 tank batteries identified in Item 1, above) with atmospheric condensate storage tanks subject to the Colorado Regulation No. 7, Section XII.D.2, system-wide reporting requirements, provide a list including the following information:
  - a. The facility name, including the AIRS ID issued by CDPHE;
  - b. The date and duration of the event;
  - c. The reason for the gas routed to the alternate location;
  - d. The source of the gas routed to the alternate location; and
  - e. The amount of gas routed to each alternate location.
3. Provide a list of all atmospheric condensate storage tanks currently owned and/or operated by KPK that are potentially subject to the Colorado Regulation No. 7, Section XII.D.2, system-wide reporting requirements. Include tank batteries that are currently above 2 tons per year as well as tank batteries that are below 2 tons per year based on KPK's uncontrolled actual VOC emission calculations. Also, provide the production values and emission factors KPK uses to determine the uncontrolled actual VOC emissions for each facility.

**ENCLOSURE 2**

**STATEMENT OF CERTIFICATION**

I certify under penalty of law that I have personally examined and am familiar with the information submitted in this document and all attachments and that, based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the information is true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for knowing violations pursuant to section 113(c)(2) of the Clean Air Act, and 18 U.S.C. §§ 1001 and 1341.

\_\_\_\_\_  
(Signature)

\_\_\_\_\_  
(Printed Name)

\_\_\_\_\_  
(Title)

\_\_\_\_\_  
(Date)

## **ENCLOSURE 3**

### **Confidential Business Information (CBI) Assertion and Substantiation Requirements**

You may assert a business confidentiality claim covering all or part of the information you provide in response to this information request for any business information entitled to confidential treatment under section 114(c) of the Clean Air Act (the Act), 42 U.S.C. § 7414(c), and 40 C.F.R. Part 2, subpart B. Under section 114(c) of the Act, you are entitled to confidential treatment of information that would divulge methods or processes entitled to protection as trade secrets. Under 40 C.F.R. Part 2, subpart B, business confidentiality means “the concept of trade secrecy and other related legal concepts which give (or may give) a business the right to preserve the confidentiality of business information and to limit its use or disclosure by others in order that the business may obtain or retain business advantages it derives from its rights in the information.” 40 C.F.R. § 2.201(e).

Information covered by a claim of business confidentiality will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in section 114(c) of the Act and 40 C.F.R. Part 2, subpart B. If you fail to furnish a business confidentiality claim with your response to this information request, the EPA will construe your failure as a waiver of that claim, and the information may be made available to the public without further notice to you.

To assert a business confidentiality claim, you must place on (or attach to) all information you desire to assert as business confidential either a cover sheet, stamped or typed legend, or other suitable form of notice employing language such as “trade secret,” “proprietary,” or “company confidential” at the time you submit your response to this information request. Allegedly confidential portions of otherwise non-confidential documents should be clearly identified, and may be submitted separately to facilitate identification and handling by the EPA. You should indicate if you desire confidential treatment only until a certain date or until the occurrence of a certain event.

The criteria the EPA will use in determining whether material you claim as business confidential is entitled to confidential treatment are set forth at 40 C.F.R. §§ 2.208 and 2.301. These regulations provide, among other things, that you must satisfactorily show that: (1) the information is within the scope of business confidentiality as defined at 40 C.F.R. § 2.201(e); (2) that you have taken reasonable measures to protect the confidentiality of the information and that you intend to continue to do so; (3) the information is not and has not been reasonably obtainable by legitimate means without your consent; and (4) the disclosure of the information is likely to cause substantial harm to your business’s competitive position. See 40 C.F.R. § 2.208 (a)-(d). Emission data, as defined at 40 C.F.R. § 2.301(a)(2), is expressly not entitled to confidential treatment under 40 C.F.R. Part 2, subpart B. See 42 U.S.C. § 7414(c); 40 C.F.R. § 2.301(e).

If you assert a claim of business confidentiality in connection with information and documents forwarded in response to this request for information, in accordance with 40 C.F.R. § 2.204(e)(4), the EPA is requesting that you answer the following questions with respect to any information or document for which you assert a claim of business confidentiality:

1. What specific portions of the information are alleged to be entitled to confidential treatment? Specify by page, paragraph and sentence when identifying the information subject to your claim.
2. For what period of time do you request that the information be maintained as confidential, e.g., until

a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, specify that event. Additionally, explain why the information should be protected for the time period you have specified.

3. What measures have you taken to protect the information claimed as confidential from undesired disclosure? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information still be considered confidential?
4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports or articles? Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?
5. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.
6. For each category of information claimed as confidential, explain with specificity whether disclosure of the information is likely to result in substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?
7. Is there any other explanation you deem relevant to the EPA's determination of your business confidentiality claim that is not covered in the preceding questions? If so, you may provide such additional explanation.

Submit your answers to the above questions concurrently with your response to this information request if you have claimed any information as business confidential. See 40 C.F.R. § 2.204(e)(2). Pursuant to 40 C.F.R. § 2.205(b)(2), you may request an extension of this deadline. The EPA will construe your failure to furnish timely comments as a waiver of your confidentiality claim, consistent with 40 C.F.R. § 2.204(e)(1). Please submit your comments to:

Lauren Hammond  
U.S. EPA Region 8  
1595 Wynkoop Street (ENF-L)  
Denver, CO 80202-1129  
(303) 312-7081

Pursuant to 40 C.F.R. § 2.205(c), you are hereby advised that information you submit as part of your answers or comments may be regarded by the EPA as entitled to confidential treatment if, when it is received by the EPA, it is marked in accordance with 40 C.F.R. § 2.203(b). As required by 40 C.F.R. § 2.204(e)(6), you may assert a business confidentiality claim covering all or part of your response to these questions, as provided in 40 C.F.R. § 2.203(b). Information covered by such a claim will be disclosed by the EPA only to the extent, and by means of the procedures, set forth in section 114(c) of the Act and 40 C.F.R. Part 2. The EPA will construe the failure to furnish a confidentiality claim with your comments as a waiver of that claim, and the information may be made available to the public.